



New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116
John Pappalardo, *Chairman* | Paul J. Howard, *Executive Director*

February 13, 2009

Ms. Patricia Kurkul
Regional Administrator
NOAA/NMFS
55 Great Republic Drive
Gloucester, MA 01930

Dear Pat:

I want to inform you of two recent Council actions related to the Northeast Multispecies fishery.

First, on February 10, 2009, the Council passed the following motion:

"that the Council reinforce its recommendation for the interim rule and ask that NMFS give further consideration to its recommendation."

The Council's recommendations for the interim rule were developed in September, 2008 and forwarded to you by my letter dated September 19, 2008. I attached a copy of that letter for your reference.

On February 10, 2009, the Council considered a document presented by NOAA General Counsel titled "Draft Consideration and Analysis of the Application of the Mixed-Stock Exception to Ending Overfishing and its Applicability to Framework 42 to the Northeast Multispecies Fishery Management Plan." After discussion of this document the Council passed the following motion:

"that the Council disagree with the conclusions of the NMFS report to the court that the mixed stock exception cannot be applied to the northeast multispecies fishery and request NMFS reconsider its position and make it consistent with congressional intent that: 1) optimum yield should be from the fishery as a whole and; 2) one stock should not dictate severe constraints on the fishery as a whole while that stock is being rebuilt."

Please consider this motion as you finish preparation of this document. Please contact me if you have any questions.

Sincerely,

Paul J. Howard
Executive Director

attachment

cc: The Honorable Edward F. Harrington
U.S. District Court, District of Massachusetts
Civil Action No.: 06-12110-EFH

ATTACHMENT C TO SECOND
DECLARATION OF PATRICIA
KURKUL



New England Fishery Management Council

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John Pappalardo, *Chairman* | Paul J. Howard, *Executive Director*

September 19, 2008

Ms. Patricia Kurkul, Regional Administrator
National Marine Fisheries Service
One Blackburn Drive
Gloucester, MA 01930

Dear Pat:

I am writing to convey the New England Fishery Management Council's strong support for groundfish interim action by NMFS pending the completion and implementation of Amendment 16 to the Northeast Multispecies FMP. The Council also appreciates the chance to provide its input on any interim action. At its September 3-4, 2008 meeting, the Council passed a motion to recommend the following measures for an interim rule:

Management Measures:

1. that the TACs for FY 2009 for Georges Bank yellowtail, SNE/Mid-Atlantic yellowtail flounder, Cape Cod/GOM yellowtail, American plaice, witch flounder, Georges Bank winter flounder, GOM winter flounder, redfish, white hake and pollock are the TACs associated with F-rebuild;
2. that the TACs for FY 2009 for Georges Bank cod and GOM cod are the TACs associated with F_{msy} ;
3. a 1,000/5,000 pound day/trip limit on witch flounder;
4. a 5,000 pound trip limit on SNE/Mid-Atlantic winter flounder and that the TAC should be less than that associated with F_{msy} ;
5. implementation of the Amendment 13 default 18% DAS reduction.

Accountability Measures

1. to the extent that the actual catches in FY 2009 exceed the TACs for any stock, such overage shall be deducted from the FY 2010 TACs; except that for Georges Bank cod such deductions in FY 2010 will not apply to the TACs allocated in FY 2010 to existing sectors for overages they were not responsible for in FY 2009;
2. the Council will incorporate a payback method in Amendment.16 to reconcile in FY 2010 any TAC overages that occur in FY 2009.

Mitigation Measures

1. an 18-inch haddock minimum size, extension of the US/CA haddock SAP, expansion of the Closed Area I hook SAP and removal of the tax on DAS transfers.

Also, the Council strongly recommends that interim rule provisions for DAS allocations remain in effect for the duration of FY 2009 and that current members of groundfish sectors be allowed to lease any multispecies days within the length, horsepower baseline requirements.

If you have any questions about the NEFMC's recommendations, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul J. Howard". The signature is fluid and cursive, with the first name "Paul" and last name "Howard" clearly distinguishable.

Paul J. Howard
Executive Director